

**LFC Requester:****Jon Clark**

**AGENCY BILL ANALYSIS  
2016 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:**

**[LFC@NMLEGIS.GOV](mailto:LFC@NMLEGIS.GOV)**

*and*

**[DFA@STATE.NM.US](mailto:DFA@STATE.NM.US)**

*{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}*

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

*Check all that apply:*

**Original**      X   **Amendment**            
**Correction**           **Substitute**          

**Date**   1/22/16  

**Bill No:**   HB 168  

**Sponsor:**   Monica Youngblood  

**Agency Code:**   305  

**Short**      Transportation Network  

**Person Writing**      P. Cholla Khoury  

**Title:**      Company Services Act  

**Phone:**   827-7484  

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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY16	FY17		

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY16	FY17	FY18		

(Parenthesis ( ) Indicate Expenditure Decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	<b>FY16</b>	<b>FY17</b>	<b>FY18</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
Duplicates/Relates to Appropriation in the General Appropriation Act

**SECTION III: NARRATIVE**

**BILL SUMMARY**

This analysis is neither a formal Attorney General's Opinion nor an Attorney General's Advisory Letter. This is a staff analysis in response to an agency's, committee's, or legislator's request.

**Synopsis:**

HB 168 enacts the "Transportation Network Company Services Act," which would allow Transportation Network Companies (TNCs), such as Uber and Lyft, to provide services in New Mexico. HB 168 exempts TNCs from being classified as motor carriers as defined in the Motor Carrier Act. The bill gives regulatory jurisdiction of TNCs to the Public Regulation Commission (PRC) and allows the PRC to adopt rules in order to effectuate such regulations.

HB 168 requires the TNC to provide riders with the applicable rate and with an option to receive an estimated fare prior to accepting the ride from the TNC driver. It also requires the TNC to provide the rider with a picture of the TNC driver and the license plate number of the vehicle in which they will be riding. The TNC must give the rider a receipt for the ride.

HB 168 requires the TNC and/or the TNC driver to maintain adequate amounts of insurance coverage, differentiating amounts between when the driver is merely logged onto the network and when the driver is transporting a rider. HB 168 allows a driver's private insurance to opt out of covering the driver while he or she is logged into the network or while he or she is transporting a rider.

HB 168 provides criteria for when a driver is an independent contractor of the TNC.

The bill requires that the TNC adopt a "zero-tolerance" policy which addresses the use of illegal drugs or alcohol while the driver is logged onto the network or providing rides. The bill provides that the TNC must provide riders with notice of procedures for reporting complaints about the drivers. TNCs must maintain, for two years, records of the enforcement of the zero-tolerance policy.

HB 168 provides criteria for TNC drivers, including background checks, driving history checks and maximum hours a driver may provide rides. The bill requires minimum vehicle safety, prevents the drivers from accepting street hails, prohibits drivers from accepting payments in cash and requires the TNC to adopt a policy on non-discrimination.

HB 168 makes the TNC Services Act the controlling authority and prevents local and municipal entities from taxing or otherwise requiring independent licensure of the TNC.

The bill creates a non-reverting Transportation Division Fund for the purpose of ensuring the safety and financial responsibility of the TNC and TNC drivers. The fund shall be administered by the PRC.

The bill gives the PRC authority to inspect the records of a TNC as well as performing audits of those records. The bill prohibits disclosure of proprietary records obtained by the PRC.

Under HB 168 the PRC has authority to impose administrative penalties if it finds that the TNC Services Act is, has been or is about to be violated. Each fine is limited to one thousand

dollars per violation. HB 168 gives the PRC authority to suspend the permit of a TNC that it finds does not continuously maintain the required financial responsibility, pay fees owed, or operates in a manner that poses an immediate or imminent threat to public safety.

HB 168 amends NMSA 1978 § 66-5-205.3 to allow an insurance carrier to exclude from coverage a driver's personal vehicle being used while logged onto a TNC digital network or while providing rides for a TNC rider.

## **FISCAL IMPLICATIONS**

## **SIGNIFICANT ISSUES**

Section 14 requires the TNC to implement a zero-tolerance policy regarding the use of drugs or alcohol by its drivers. It also requires the TNC to investigate rider complaints of illegal drugs or alcohol use and to suspend the driver's ability to accept trip requests for the duration of the investigation.

HB 168 imposes no requirements as to the substance or comprehensiveness of investigation. Additionally, while an investigation finding that a driver used illegal drugs or alcohol presumably would preclude the driver from providing rides for the TNC, the bill does not clearly address the effect of the results of the investigation or what constitutes a finding of violation. For example, it is not clear whether a violation of one TNC's zero-tolerance policy would preclude the driver from providing rides for another TNC.

## **PERFORMANCE IMPLICATIONS**

## **ADMINISTRATIVE IMPLICATIONS**

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

## **TECHNICAL ISSUES**

## **OTHER SUBSTANTIVE ISSUES**

## **ALTERNATIVES**

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status Quo

## **AMENDMENTS**